

# **EXHIBIT A**

STATE OF WISCONSIN    CIRCUIT COURT    MILWAUKEE COUNTY  
BRANCH 04

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STATE OF WISCONSIN,

Plaintiff,

CASE NO. 18-CF-5908

vs.

KEVIN BOON,

Defendant.

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INITIAL APPEARANCE AND CASH BOND SET

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BEFORE THE HONORABLE MICHAEL J. HANRAHAN  
CIRCUIT COURT JUDGE PRESIDING  
DECEMBER 17, 2018

A P P E A R A N C E S:

MR. MATTHEW TORBENSON, Attorney at Law, appeared on  
behalf of the State.

MR. CALVIN MALONE, Attorney at Law, appeared on behalf  
of the Defendant.

MR. KEVIN BOON, Defendant, appeared in person.

DANIELLE N. HOLCOMB  
Official Court Reporter

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TRANSCRIPT OF THE PROCEEDINGS

THE COURT: *State of Wisconsin versus Kevin Boon*, case number 18-CF-5908. Count one is physical abuse of a child, repeated acts causing bodily harm, party to a crime. Count two, causing mental harm to a child as a party to a crime. Count three, chronic neglect of a child, consequence is bodily harm, party to a crime. Count four, chronic neglect of a child, consequence is emotional damage as a party to a crime. Count five is chronic neglect of a child, consequence is bodily harm, and count six, false imprisonment as a party to a crime.

This is an initial appearance. A copy of the complaint has previously been given to the defendant. The case is assigned to Judge Hanrahan in Branch 4. The defendant may qualify for public defender. There was, I believe, \$10,000 previously posted as bail. Appearances, please?

MR. TORBENSON: Matthew Torbenson appears for the State. Good afternoon, your Honor.

MR. MALONE: Good afternoon, Judge. Calvin Malone appearing with Kevin Boon. Mr. Boon is present before the Court. Judge, so the Court understands the status, at this point, Mr. Boon was scheduled to appear in out of custody court this afternoon, and he did so,

1 and as is the protocol with my office, the Public  
2 Defender's Office, I met with Mr. Boon to determine  
3 whether or not he wishes to be represented by counsel.  
4 And it was during the discussion that he and I had that  
5 Mr. Boon decided that he did not want to be represented  
6 by the Public Defender's Office, that at this point, I  
7 think, he wished to be able to represent himself. And  
8 when we went on the record before the Court Commissioner  
9 in out of custody court, he then referred the matter  
10 before you.

11 THE COURT: Okay. Thank you for that  
12 background information, Mr. Malone. I'm not going to go  
13 through a full self-representation colloquy with  
14 Mr. Boon at this time, but -- because I don't believe  
15 that it's necessary. But, Mr. Boon, you understand,  
16 first of all, that you do have a right to be represented  
17 by counsel in all of the legal proceedings relating to  
18 those charges, and if you are indigent and are unable to  
19 pay for an attorney yourself, an attorney can be  
20 appointed and will be appointed to represent you. Do  
21 you understand that?

22 THE DEFENDANT: Yes.

23 THE COURT: All right. And you understand  
24 that the Public Defender's Office has indicated that it  
25 would represent you, but is it correct as Mr. Malone

1           said, you are refusing to accept the representation of  
2           the Public Defender's Office?

3                   THE DEFENDANT: That's correct.

4                   THE COURT: At this point we're having an  
5           initial appearance on the case. Mr. Boon, you've been  
6           provided with a copy of the criminal complaint, you have  
7           that yourself.

8                   THE DEFENDANT: Yes.

9                   THE COURT: Okay. And I see you have a number  
10          of files in front of you. I assume from that you're a  
11          good reader, you know how to read pretty well.

12                   THE DEFENDANT: Yes.

13                   THE COURT: Okay. So you can read that  
14          complaint if you decide to do so, and I would encourage  
15          you to do that so that you understand the charges  
16          against you, even though my clerk has just read off the  
17          six counts that are named in the criminal complaint  
18          against you, but I would encourage you to read the  
19          entire criminal complaint because it contains certain  
20          facts that the State is putting forth and asserting that  
21          would support the six criminal charges that are made  
22          against you and so I would strongly encourage you to  
23          read that criminal complaint yourself so that you  
24          understand what the State is saying you did that would  
25          form the elements of the offense or form the elements

1           for those six offenses.

2                   I'm also required to advise you of the  
3           maximums and minimums that are imposed on each one of  
4           these counts. For count one, the physical abuse of a  
5           child, repeated act causing bodily harm as a party to a  
6           crime, that's a class E felony, and it has a maximum  
7           fine of up to \$50,000 or up to 15 years in prison or  
8           both. As to count two, mental harm to a child as a  
9           party to a crime, that's a class F felony and the  
10          maximum is a fine of up to \$25,000 or up to 12 years and  
11          six months in prison. As to count three, chronic  
12          neglect of a child the consequence is bodily harm as  
13          party to a crime. It's, again, a felony, a class F  
14          felony. The maximum is a fine of up to \$25,000 or up to  
15          12 years and six months in prison or both. As to count  
16          four, chronic neglect of a child, consequence is  
17          emotional damage as party to a crime, that's a class E  
18          felony, and for that charge, you face a fine of up to  
19          \$50,000, up to 15 years in prison, or both. As to count  
20          five, chronic neglect of a child, consequence is bodily  
21          harm, that also is a class F felony, and you face a  
22          maximum fine of up to \$25,000 or up to 12 years and six  
23          months in prison or both.

24                   As to count six, false imprisonment, party to  
25          a crime, that is a class H felony, and the maximum for

1 that charge is a fine of up \$10,000 or up to six years  
2 in prison or both. So those are the maximums that those  
3 six charges have for each one of them.

4 All right. I am now reviewing the criminal  
5 complaint. I started reading it previously before the  
6 case was called. All right. The Court does find that  
7 the complaint does state probable cause based on my  
8 review of the facts alleged in the criminal complaint,  
9 and so I believe we need to set these matters for a  
10 preliminary hearing.

11 THE CLERK: And bail, Judge.

12 THE COURT: And bail.

13 MR. MALONE: Judge?

14 THE COURT: Yes.

15 MR. MALONE: I believe that the Court in  
16 advising Mr. Boon that he has certain rights, including  
17 the right to counsel, I would include the right to  
18 self-representation, and I think that at least as he has  
19 advised me, Mr. Boon wishes to represent himself in this  
20 matter. I have spoken with him earlier today this  
21 afternoon and spoke to him about the advantages and  
22 disadvantages, but it is his position and at this point  
23 to be able to represent himself, and so I think that to  
24 accomplish that, the Court will need to engage with  
25 Mr. Boon in a colloquy with respect to not only the

1 advantages and disadvantages of self-representation, I  
2 think also develop a record with respect to Mr. Boon's  
3 educational background, health background, mental health  
4 just so that it's clear. I think that that's what this  
5 Court needs to do at this point.

6 THE COURT: I don't know if I need to do that  
7 today. I agree I would need to do that before the  
8 preliminary hearing if he were to represent himself at  
9 the preliminary hearing. We actually do have some time  
10 left today before the end of the day. So...

11 MR. MALONE: If I could just have a moment.

12 THE COURT: Sure.

13 MR. MALONE: Judge, I talked to counsel about  
14 the matter. I think that maybe the Court was on target  
15 in terms of maybe allowing Mr. Boon an opportunity to  
16 reflect on a decision.

17 THE COURT: Okay. Yeah. That's -- Mr. Boon,  
18 I'm just going to have a quick discussion with you. Let  
19 me tell you how it goes. I think Mr. Malone probably  
20 talked to you a little bit about this already, but in a  
21 criminal case, here you have probably one of the most  
22 experienced district attorneys in the entire Milwaukee  
23 County District Attorney's Office who will be handling  
24 the case on behalf of the State of Wisconsin. And so  
25 that attorney went to law school and attended law school



1 and graduated, learned all the different procedural and  
2 substantive law issues.

3 That attorney then started practicing here in  
4 Milwaukee County in the District Attorney's Office and  
5 has practiced for years and years, trying all different  
6 kinds of cases, handling all different kinds of motions,  
7 the rules of evidence, all the procedural rules in the  
8 course. He understands all the different jury  
9 instructions that can apply to different types of cases.  
10 He has picked juries. He's argued cases in front of  
11 juries and closing arguments and understands all the ins  
12 and outs of handling a case in court. A case that's  
13 going to trial.

14 You, on the other hand, have not gone to law  
15 school. You've not been trained in the substantive and  
16 procedural law. You've never handled a jury trial.  
17 You've never picked a jury. You don't know anything  
18 about the jury instructions at this point, and I can  
19 just tell you, you're at an extreme disadvantage in  
20 trying the case against a very experienced attorney.  
21 And if you had your own attorney, then the playing field  
22 is levelled.

23 But, you know, it'd be like getting into a  
24 foot race with another person who's very strong and  
25 fast, but in that foot race, you'd start with one of

1 your legs tided up behind your back and you're hopping  
2 on one leg. That's an analogy of the disadvantage of  
3 one party having no experience in a courtroom trying a  
4 criminal trial against a very experienced lawyer. When  
5 you have two experienced lawyers, then the playing field  
6 is level. You can talk with the lawyer, make decisions  
7 and strategy decision with the lawyer, but if you don't  
8 have that lawyer to talk with, ask questions about legal  
9 procedure and rules of evidence and all that, you're at  
10 a real disadvantage, and it's something that can  
11 continue from the start of a case, all the way right  
12 through the finish of the trial and the sentencing in a  
13 case. You're at a disadvantage at every single stage in  
14 the case.

15 So I really strongly encourage you to think  
16 about this because I read off the maximum prison time in  
17 each one of these cases and, you know, when you add it  
18 all up, I see that you're about 40, maybe 47 years old  
19 right now; is that right?

20 THE DEFENDANT: Yes.

21 THE COURT: Okay. If you're convicted of all  
22 the charges in this case, the maximum would put you  
23 probably in prison until you're dead. So the  
24 seriousness of the case for a person your age can't be  
25 underestimated. And so I really would strongly

1 encourage you to consider that question of whether or  
2 not to have an attorney. It's your life. It's your  
3 life. You could be put at a disadvantage and lose the  
4 case just because of your inexperience and spend the  
5 rest of your life in prison or you could have an  
6 attorney represent you, level the playing field, and  
7 have a shot of successfully defending against the  
8 charges.

9 It's your decision, ultimately. I would have  
10 to go through a number of questions so I'd satisfy  
11 myself you're capable of representing yourself. I'm not  
12 going to do that today, but I really would strongly  
13 encourage you to think about that very hard. Because  
14 once the case gets tried, that's the one time you get to  
15 do it. You don't get a do-over. Do you understand  
16 that, Mr. Boon?

17 THE DEFENDANT: Yes.

18 THE COURT: We try the case and you do it  
19 yourself, that's it, that's the only time it happens.  
20 One of the things you can't do is say my counsel was  
21 ineffective because it's all on you. Actually, one of  
22 the things if you have a lawyer represent you, the  
23 lawyer doesn't do a good job, one of the things you can  
24 say to the Court of Appeals is my lawyer did a bad job,  
25 he missed all these issues. It was ineffective

1 assistance of counsel. When you represent yourself, you  
2 can't make that argument because it's all on you. I  
3 will already have made a record as I did today that  
4 you're -- you understand you're at a disadvantage and  
5 you don't know what you're doing in the courtroom, and  
6 that probably will remain the case when we get up to a  
7 trial as well.

8 So that's all I'm going to say at this point.  
9 We'll address this issue later. I would really have a  
10 serious discussion with Mr. Malone and seriously  
11 consider that issue because you really do yourself a  
12 disservice by not having counsel in the case. All  
13 right. Madam clerk, let's look for a preliminary  
14 hearing date in the statutory time limit.

15 THE CLERK: It is a codefendant case.

16 MR. TORBENSON: The codefendant is scheduled  
17 for January 7th of 2019, which is one day outside of the  
18 time limits. That defendant waived the time limits.

19 THE COURT: Mr. Boon, would you like to have  
20 the hearing on the same date as the codefendant, Felicia  
21 Boon?

22 THE DEFENDANT: Yes.

23 THE COURT: Okay. And so you waive that time  
24 limit. That's a day over the statutory time limit. You  
25 waive that limit to have it on the same date?

1 THE DEFENDANT: Yep.

2 THE COURT: All right. Very good. Thank you.  
3 All right. Let's set it for the same date, then.

4 THE CLERK: Judge, you still need to set bail.

5 THE COURT: Okay. Then we need to have bail.  
6 Mr. Torbenson, I believe I thought bail had been set  
7 already.

8 MR. TORBENSON: \$10,000 cash bail was posted  
9 by the defendant before charges were formally brought.  
10 This was a case where I would have sought higher cash  
11 bail if the defendant remained in custody. He did  
12 appear today. Because of that fact, I am not asking the  
13 Court to raise the bail from the \$10,000 cash bail.  
14 What I can also tell the Court because I've had concerns  
15 about the children that are involved in this case, the  
16 commissioner did already take the steps of issuing a no  
17 contact order down in out of custody intake court so  
18 that matter has been handled. I'd just ask that bail  
19 remain at \$10,000 cash.

20 THE COURT: And all other conditions remain?

21 MR. TORBENSON: Yes, please.

22 THE COURT: All right. That's what I will do.  
23 So cash bail remains set at \$10,000. The no contact  
24 provision and all other conditions of bail remain the  
25 same. As the commissioner told you I assume, Mr. Boon,

1 if you don't follow the conditions of bail, for example,  
2 if you seek out and try to have contact with these  
3 children or, you know, confront them and have contact  
4 with them, that would be a violation of your conditions  
5 of bail. One of the first things I do, people violate  
6 their conditions of bail is I forfeit the bail that  
7 they've posted and I can increase it to a greater  
8 amount. So, for example, I could forfeit the \$10,000  
9 and that means it would just go into the state treasury,  
10 and I could say now your bail is \$20,000, and you got to  
11 come up with new cash. That's one of the things I could  
12 do.

13 Also, if you were to violate the condition of  
14 bail, it could and likely would result in a charge of  
15 bail jumping, which is a new and separate criminal  
16 offense, and if there's any offensive contact, such as a  
17 battery, if you hit a child or something like that, then  
18 there'd probably be another new charge as well. So I'm  
19 just telling you these things so you understand how  
20 serious the rules of bail are, and that you need to  
21 follow them. Okay. All right. Madam Clerk, what is  
22 the next court date?

23 THE CLERK: Next court date will be for  
24 preliminary hearing on January 7th at 8:30.

25 THE COURT: All right. Well, my clerk has

1        advised me off the record that she doesn't see  
2        conditions of bail so I'm going to order level five  
3        supervision so that means weekly appointments with  
4        Justice Point and that as a part of those, that there be  
5        random drug tests as Justice Point believes appropriate.  
6        Also, no possession of any firearms or dangerous weapons  
7        and no contact with the victims as indicated in the  
8        complaint. Also, no possession of any -- no possession  
9        or use of any controlled substances without a valid  
10       prescription and maintain absolute sobriety. Okay.  
11       Those are the conditions of bail. I'm entering a  
12       pretrial release condition order indicating those  
13       conditions.

14                So, Mr. Boon, I'm going to order that you go  
15       to Justice Point tomorrow and establish contact.  
16       They'll assign an agent to be your condition of bail  
17       agent, and they will set appointments with you. That's  
18       the person you'll be in contact with. I'm ordering you  
19       to go to Justice Point tomorrow. They have their office  
20       in the safety building, and you're to go there and check  
21       in and establish contact with Justice Point then. All  
22       right. Thank you.

23                (Whereupon, the proceedings concluded.)  
24  
25

STATE OF WISCONSIN )

) S.S.

MILWAUKEE COUNTY )

I, DANIELLE N. HOLCOMB, Official Court  
Reporter, do hereby certify that I have reported the  
foregoing proceedings; that the same is true and correct  
as reflected by my original machine shorthand notes  
taken at said time and place.

Dated August 16, 2019

Danielle N. Holcomb

Danielle N. Holcomb